

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAMON SANCHEZ,)	
)	
Plaintiff,)	Civil Action No. 20-1005
)	
v.)	District Judge W. Scott Hardy
)	Magistrate Judge Maureen P. Kelly
CAPTAIN SILBAUGH, LIEUTENANT)	
LEWIS, STEVEN LONGSTRETH,)	
PSYCHOLOGIST WHITMAN and)	
PSYCHIATRIST PUSHKALAI PILLAI,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Maureen P. Kelly on August 21, 2023. (Docket No. 206). The R&R recommends that the Motion for Summary Judgment (Docket No. 171) filed by Defendant Pushkalai Pillai (“Pillai”) be granted. (*See* Docket No. 206 at 1, 15). Service of the R&R was made on Defendants through the Court’s CM/ECF system, and they were advised that any objections to same were due by September 5, 2023. (*See id.* at 15-16 and docket entry). Service of the R&R was made on Plaintiff by mail, and he was informed that any objections were due by September 7, 2023. (*See id.*). Thereafter, no party filed any objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. *See* Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, which explicitly stated that failure to file timely objections “will waive the right to appeal” (Docket No. 206 at 15), this Court reviews the magistrate judge’s decision for

plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

In this case, upon careful review of the R&R and the entire record, including Pillai’s motion for summary judgment and the materials filed by the parties in support thereof and in opposition thereto, and finding no plain error on the face of the record, the Court will accept Judge Kelly’s recommendation. As such, the Court will adopt the R&R as the Opinion of the Court and will grant Pillai’s motion for summary judgment. In so ruling, the Court agrees with Judge Kelly’s conclusion that the record does not permit a reasonable jury to find that Pillai acted with deliberate indifference to Plaintiff’s mental health condition. (*See* Docket No. 206 at 12). The Court also agrees with Judge Kelly that Plaintiff’s mental health records establish that Pillai and other mental health professionals provided Plaintiff with mental health assessments and care on a nearly daily basis after Plaintiff returned from the hospital following his September 2018 suicide attempt. (*See id.* at 14). The Court further agrees that there is no evidence that Pillai’s treatment or recommendations departed from any recognized professional standard of care, and that, although Plaintiff disagrees with Pillai’s treatment decisions and assessment of his condition, such a disagreement does not present an actionable constitutional violation. (*See id.* at 15 (citing *Washington v. Rozich*, 734 F. App’x 798, 800 (3d Cir. 2018))). Moreover, the Court agrees with Judge Kelly that to the extent such a disagreement may state a claim for negligence, simple negligence cannot support an Eighth Amendment claim. (*See id.* (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976))). For these reasons, as set forth more fully in the R&R, the Court will adopt

the R&R as the Opinion of the Court, and the Court will grant Pillai's motion for summary judgment.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 21st day of December, 2023,

IT IS HEREBY ORDERED that the Report and Recommendation (Docket No. 206 ("R&R")) is ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the R&R, Defendant Dr. Pillai's Motion for Summary Judgment (Docket No. 171) is GRANTED. Accordingly, summary judgment is granted in favor of Defendant Pillai as to the claims against her in Plaintiff's Amended Complaint (Docket No. 65).

/s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc/ecf: All counsel of record
 Ramon Sanchez (via U.S. Mail)